

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 23, 2005

To: The Commission
(Meeting of May 26, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1458 (De La Torre) Telecomm: Digital Divide Account**
As Amended April 26, 2005

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support

SUMMARY: AB 1458 would clarify that the renewal of an expiring lease for wireless telecommunications facilities on state-owned land is the equivalent of a new lease for purposes of depositing 15% of the lease revenue in the Digital Divide Account within the California Teleconnect Fund Administrative Committee Fund for the Digital Divide Grant Program, which was established by AB 855 (Firebaugh), Statutes of 2003.

DIVISIONAL ANALYSIS (Telecomm): AB 1458 would expand the funding source for the Digital Divide Grant Program so that it has a better chance of being fully funded and implemented within the next ten years.

The Digital Divide Account must reach \$500,000 before the commission may implement the grant program. Since the current funding mechanism has only yielded a total of \$756 in the first year, implementation of the program is unlikely in the foreseeable future.

LEGISLATIVE HISTORY: AB 855 (Firebaugh), chaptered October 11, 2003, established the Digital Divide Grant Program with a funding mechanism of 15% of the proceeds from wireless telecommunications facility leases of state property, excluding CalTrans, that were entered into after January 1, 2004.

The CPUC is required by AB 855 to deposit the proceeds of these leases into a Digital Divide sub account of the California Teleconnect Fund (CTF). When this account reaches \$500,000 in value, the CTF is required to dispense the funds for technology grants to rural and urban community based organizations. The commission may not use more than 5% of the fund's revenues for administration of the program.

PROGRAM BACKGROUND: To date, the Digital Divide Grant Program has been inactive because the funds available have not yet reached the threshold level of \$500,000. The program is intended to be a funding source for community technology programs as a sub account of the California Teleconnect Fund.

The California Teleconnect Fund, as it is currently constituted, deals only with established telephone companies in the provision of telecommunications services. The provision of technology is a separate area of expertise that the CTF currently does not deal with. It will require at least one person to set up the program and dispense the funds - a cost to the state of around \$100,000 for one PURA PY.

Concerns have been expressed regarding the cost/benefit of this program. Once the fund reaches the initial start-up amount of \$500,000, the commission must project that at least \$500,000 will be available in the fund during each calendar year following implementation of the program. Based on the Assembly Appropriations Committee's estimate that less than \$50,000 a year from renewed leases will be transferred to the Digital Divide Account, the commission will probably spend more on staff for the administration of the program than can be dispensed in grants to digital divide pilot projects each year.

STATUS: Passed the Assembly 5/19/05. To Senate Rules for assignment.

SUPPORT/OPPOSITION

Support:

California Community Technology Policy Group (Sponsor)

Opposition:

None on file.

STAFF CONTACTS:

Pam Loomis
OGA

pcl@cpuc.ca.gov
(916) 327-8441

Katherine Morehouse
Telecomm Division

ksm@cpuc.ca.gov
(415) 703-5331

Date: May 23, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1458 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 26, 2005

INTRODUCED BY Assembly Member De La Torre

FEBRUARY 22, 2005

An act to amend Section 280.5 of the Public Utilities Code,
relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1458, as amended, De La Torre. Telecommunications: lease of state property for wireless facilities: Digital Divide Account in the California Teleconnect Fund Administrative Committee Fund.

Existing law requires the Director of General Services, to compile and maintain an inventory of state-owned real property, excluding certain property, that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to provide a requesting party, upon payment of any applicable fee, with a copy of the inventory. Existing law authorizes the director to negotiate and enter into an agreement for the lease of certain department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

Existing law creates the Digital Divide Account within the California Teleconnect Fund Administrative Committee Fund in the State Treasury. Existing law requires that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to the above-described provisions, except for revenues from fees collected from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to January 1, 2004, be deposited in the Digital Divide Account, to be available, upon appropriation by the Legislature, to finance digital divide projects through the Digital Divide Grant Program.

This bill would ~~delete the above-described exception for revenue from a lease agreement existing prior to January 1, 2004, from the requirement that 15% of revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services be deposited in the Digital Divide Account~~
, for purposes of those provisions, deem the renewal of an existing lease agreement to be a new lease subject to the 15% diversion to the account .

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 280.5 of the Public Utilities Code is amended to read:

280.5.

(a) Of the revenues from fees collected pursuant to Section 14666.8 of the Government Code after the operative date of this section, except for revenues from fees from a lease agreement for access to Department of Transportation property *or a lease agreement existing before the operative date of this section* , 15 percent shall be available, upon appropriation by the Legislature, for the purpose of addressing the state's digital divide.

(b) Revenues described in subdivision (a) shall be deposited in the Digital Divide Account, which is hereby established in the California Teleconnect Fund Administrative Committee Fund established pursuant to Section 270, to be used only for digital divide pilot projects. Not more than 5 percent of the revenues described in subdivision (a) may be used to pay the costs incurred in connection with the administration of digital divide pilot projects by the commission.

(c) (1) The Digital Divide Grant Program is hereby established subject to the availability of funding pursuant to this section. The commission may not implement the grant program until the commission projects that at least five hundred thousand dollars (\$500,000) will be available in the Digital Divide Account during the calendar year following implementation, based on money collected pursuant to Section 14666.8 of the Government Code.

(2) The commission shall provide grants pursuant to this subdivision on a competitive basis subject to criteria to be established by the commission and in a way that disburses the funds widely, including urban and rural areas. Grants shall be awarded to community-based nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of funding community technology programs.

(3) Recipients of grants pursuant to this subdivision shall report to the commission annually on the effectiveness of the grant program.

(4) The commission shall report to the Legislature and the Governor annually on the effectiveness of the program administered pursuant to this subdivision.

(d) For purposes of this section, "community technology programs" means a program that is engaged in diffusing technology in local communities and training local communities in the use of technology, especially local communities that otherwise would have no access or limited access to the Internet and other technologies.

(e) For purposes of this section, "digital divide projects" means community technology programs involved in activities that include, but are not limited to, the following:

(1) Providing open access to and opportunities for training in technology.

(2) Developing content relevant to the interests and wants of the local community.

(3) Preparing youth for opportunities in the new economy through multimedia training and skills.

(4) Harnessing technology for e-government services.

(f) For purposes of this section, the renewal of an existing lease agreement is deemed to be a new lease subject to the 15 percent diversion to the Digital Divide Account.